

APPEAL NO. 040099
FILED MARCH 1, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 13, 2003. The hearing officer determined that the respondent's (claimant) compensable injury of _____, includes a herniated nucleus pulposus (HNP) at L5-S1, but does not include pseudarthrosis. The appellant (carrier) appealed the hearing officer's extent-of-injury determination with regard to the HNP at L5-S1 based on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable low back injury on _____. The claimant testified that he twisted his low back while handling sheetrock. A medical report dated August 14, 1997, from the treating doctor, Dr. L, states that "[l]umbar MRI scan shows right L4-5 disk herniation with a central bulge at L5/S1." A medical report dated November 25, 1997, from Dr. D reflects that Dr. D reviewed a myelogram and CAT scan of the lumbar spine that revealed "a bulging disk at L5-S1 with posterior displacement of the right L5 nerve root." The claimant underwent spinal surgery at L4-5 on January 13, 1998. An MRI of the lumbar spine dated December 30, 2002, reflects a mild to moderate bulging disc at L5-S1.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer was persuaded by the medical evidence that the HNP at L5-S1 is a direct and natural result of his compensable injury of _____. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb the disability determination on appeal. Cain, *supra*.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **FARMERS INSURANCE EXCHANGE** and the name and address of its registered agent for service of process is

**FRED WERKENTHIN
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Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge